

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:21-cv-193-MOC**

NEW EXCELSIOR, INC.,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
AMUT DOLCI BIELLONI SRL,)	
AMUT-COMI SRL,)	
)	
Defendants.)	
<hr style="width:40%; margin-left:0;"/>)	

THIS MATTER comes before the Court on a Motion to Dismiss for Failure to State a Claim, as to Defendant Amut-Comi Srl. (Doc. No. 12).

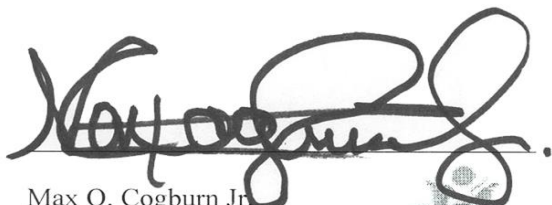
Plaintiff New Exelsior, Inc. filed this breach of contract action in Transylvania County Superior Court, naming and as Defendants two Italian companies, Amut Dolci Bieloni Srl and Amut-Comi Srl. Defendants removed the action to this Court on July 26, 2021. (Doc. No. 1). On May 5, 2022, Defendants filed the pending motion to dismiss Plaintiff's claim against Amut-Comi Srl on the ground that Amut-Comi Srl was not a party to the underlying contract. (Doc. No. 12).

Plaintiff has filed a Response, (Doc. No. 14), indicating that Plaintiff does not oppose dismissal as to Defendant Amut-Comi Srl and agreeing that Defendant Amut Dolci Bieloni Srl is the proper party to this lawsuit.

Given Plaintiff's consent to dismissing Amut-Comi Srl, the Motion to Dismiss (Doc. No. 12), is **GRANTED**, and Defendant Amut-Comi Srl is dismissed from this lawsuit.

IT IS SO ORDERED.

Signed: June 21, 2022

A handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.", written over a horizontal line.

Max O. Cogburn Jr.
United States District Judge

